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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,028	03/02/2004	Jay S. Walker	03-018	1255

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STAMFORD, CT 06905

EXAMINER

BROCKETTI, JULIE K

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 05/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/791,028	Applicant(s) WALKER ET AL.	
	Examiner Julie K. Brockett	Art Unit 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 15 and 33-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 15 and 33-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 06152005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5-8, 33, 34, 36, 39 and 40 are rejected under 35

U.S.C. 102(b) as being anticipated by Betmaker.com. Betmaker.com teaches of method for players to make bets on various events. A balance of funds is established for a player (See Betmaker.com, “FAQ player accounts”). A wager amount is determined for a game. For example, there are minimum wager amounts required (See Betmaker.com “about betmaker”). The system determines whether the wager amount is greater than a predetermined amount. For example, the system will not accept bets less than the minimum bet and will only accept bets greater than zero (which can be considered the predetermined amount); therefore, the computer system checks to make sure the bet is greater than the minimum bet amount and zero (See Betmaker.com “FAQ”). This is an inherent feature in computerized betting systems. All computer betting systems run a variety of checks to ensure that a proper amount is being bet, i.e. an amount that is allowed by the betting program. A

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confirmation message is displayed if the wager amount is greater than the predetermined amount. For example, a confirmation message is displayed if the player meets the minimum bet (See Betmaker.com "Buy-wagering") [claims 1, 33, 34]. A computer betting system would not display a confirmation message to confirm a bet if the bet is improper or not allowed by the betting program. Consequently, once again it is inherent that the computer betting systems check to make sure a valid bet is placed prior to allowing a player to confirm the bet. The game comprises a plurality of plays. For example, football and baseball involve plays in game play (See Betmaker.com) [claim 2]. The wager amount required corresponds to a plurality of plays (See Betmaker.com "parlays") [claim 5]. The wager amount required corresponds to a predetermined period of time (See Betmaker.com "singles", "general rules") [claim 6]. For example, the player wagers on a specific time limit for the sporting event. The confirmation message comprises a confirmation screen (See Betmaker.com "Buy-wagering") [claim 7]. The confirmation screen comprises at least one selectable location (See Betmaker.com "Buy-wagering") [claim 8]. It is inherent to the Betmaker system that it includes a computer with a processor and a computer readable medium storing instructions configured to direct a processor to perform the aforementioned method [claims 33, 34]. All on-line betting web sites require a computer, processor and program in order to function. The Betmaker system involves on-line bet placing which requires a computer and software to function. Betmaker.com

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also discloses that when a player makes a wager, the display reads the available balance left after the bet and the amount of money at risk (See Betmaker.com Examples I & II under Buy Wagering). Therefore, the confirmation message includes an indication of the wager amount compared to the balance of funds [claim 36]. The predetermined amount corresponds to a predetermined ratio (See Betmaker.com FAQ) [claim 39]. For example, the minimum wager for Internet wagering is \$6. That is a predetermined ratio of 6:1. Therefore, the predetermined ratio is not less than one half [claim 40].

It is noted that the Examiner retrieved the July 21, 2001 version of Betmaker.com from the Internet archives.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 35, 37, 38 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Betmaker.com. As stated above it is inherent that Betmaker.com includes a processor and a computer readable medium in communication with the processor which stores instructions configured to direct the processor to perform a method (See Betmaker.com) [claim 41]. The

system determines a balance available for a player to wager and determines a wager amount required for the game (See Betmaker.com Buy Wagering, FAQ).

A confirmation message is displayed every time a valid bet is entered.

Therefore, the confirmation message is displayed if the determined ratio is greater than a predetermined ratio which is $1/\infty$. Betmaker.com also discloses that when a player makes a wager, the display reads the available balance left after the bet and the amount of money at risk (See Betmaker.com Examples I & II under Buy Wagering). Therefore, the confirmation page clearly indicates the cost to play the game, i.e. amount at risk, and the available balance. At the time the invention was made it would have been an obvious matter of design choice to a person of ordinary skill in the art to display the cost/wager to play the game as a percentage/ratio of an available balance because Applicant has not disclosed that the display of a percentage/ratio provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the display of the available balance and the amount of money at risk because the same information is being communicated to the player in order for them to confirm the bet. Therefore, it would have been an obvious matter of design choice to modify Betmaker.com to obtain the invention as specified in claims 35, 37, 38, 41, 42. It is further noted that to have the predetermined ratio be not less than one half would also have been obvious to a person of ordinary skill in the art. By displaying a confirmation message only

when a player is betting a significant portion of their available balance ensures that the person actually knows the potential risk of the bet before they place the bet. Once players see how much they are actually wagering, they may reconsider the bet and want to withdrawal it. Consequently, by verifying that a player actually wants to make the bet, the wagering site can escape liability for a player losing a wager.

Claims 3, 4 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Betmaker.com in view of Walker, U.S. Patent No.

6,077,163. Betmaker.com lacks in disclosing that the game comprises a flat rate or a prepaid session. Walker discloses a gaming machine in which the game comprises a flat rate session and a prepaid session (See Walker abstract [claims 3 & 4]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the users of Betmaker.com prepay for a flat rate session by prepaying or by paying for a flat rate session a player only has to wager once for multiple games and is not burdened with constantly having to wager for other games. For example it would have been obvious that, a player could wager \$100 to be divided up among 10 games in Betmaker.com. Betmaker.com teaches of the player confirming the confirmation information (See Betmaker.com "Buy-wagering"). By having the player confirm the wager, the player makes sure that they have wagered what they wanted to and if they accidentally make a wager, they have a chance to cancel it before they are liable for the wager. Therefore the act of confirming a wager provides

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additional protection for the player. Betmaker.com also discloses that when a player makes a wager, the display reads the available balance left after the bet and the amount of money at risk (See Betmaker.com Examples I & II under Buy Wagering). Therefore, the confirmation page clearly indicates the cost to play the game, i.e. amount at risk, and the available balance [claim 15]. At the time the invention was made it would have been an obvious matter of design choice to a person of ordinary skill in the art to display the cost to play the game as a percentage of an available balance because Applicant has not disclosed that the display of a percentage provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the display of the available balance and the amount of money at risk because the same information is being communicated to the player in order for them to confirm the bet. Therefore, it would have been an obvious matter of design choice to modify Betmaker.com to obtain the invention as specified in claims 15.

Walker discloses a method of receiving a request to initiate play of a game at a gaming machine (See Walker col. 4 lines 6-10). The device determines whether to present confirmation information to a player. If confirmation is to be presented to the player, the device determines the confirmation to present and presents it to the player (See Walker col. 14 lines 67-68; col. 15 lines 1-9). A credit balance associated with the player is

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decremented and play is initiated (See Walker col. 15 lines 19). In determining whether to present the confirmation information to the player. The device determines the cost to play the game and determines whether the cost to play the game is greater than a predetermined cost (See Walker col. 14 lines 67-68; col. 15 lines 1-9) [claim 15].

Response to Amendment

It has been noted that claim 15 has been amended. Claims 9-14 and 16-32 have been cancelled. New claims 35-43 have been added.

Response to Arguments

Applicant's arguments filed July 7, 2005 have been fully considered but they are not persuasive.

Applicant argues that Betmaker.com lacks in disclosing "displaying a confirmation message if the wager amount is greater than the predetermined amount." Applicant further argues that there is no evidence that the system will not accept bets less than the minimum bet and no evidence that the computer checks anything. The Examiner notes that "minimum bet" is the smallest amount of money that needs to be wagered in order to constitute a valid bet. Betmaker.com clearly indicates that \$6 is the minimum Internet bet required in order to have the transaction processed. The Examiner notes that it is inherent in on-line wagering systems that a betting website will not

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process bets that do not meet certain requirements, i.e. some amount of money has been bet (the bet is greater than zero) or the player has bet at least the minimum bet required.

Applicant argues that the reference allows for less than the minimum bet to be accepted. The Examiner notes that the passage referring to a wager less than a so-called "minimum bet" is referring to a phone bet less than the \$50 minimum bet over the phone. However, there is nothing in the references that says that less than a \$6 minimum Internet bet can be made.

Applicant further argues that there is no evidence that the displaying of the confirmation page has anything to do with the amount of the bet. The Examiner disagrees and notes that if a sufficient bet is not made, i.e. a bet is not greater than zero or does not meet the minimum betting requirements, then the confirmation page will never appear. Therefore, the confirmation page appearing is directly related to the amount of the bet.

Applicants have now added the limitation "in which the confirmation information includes an indication of the cost to play the game as a percentage of an available balance" to claim 15. This limitation is addressed in the rejection above as well as the rejections of new claims 35-43.

Conclusion

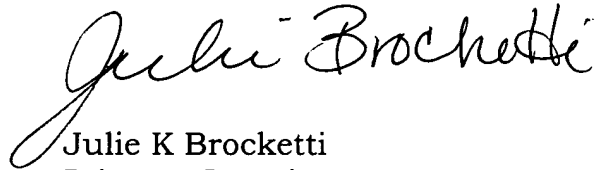
THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K. Brockett whose telephone number is 571-272-4432. The examiner can normally be reached on M-Th 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julie K Brockett
Primary Examiner
Art Unit 3713